

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Samuel Weaver,

Petitioner,

v.

Case No. 1:11cv218

Warden, Lebanon Correctional Institution,

Judge Michael R. Barrett

Respondent.

ORDER

This matter is before the Court on the Report and Recommendation filed by the Magistrate Judge on October 11, 2012 (Doc. 14).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). No objections to the Magistrate Judge's Report and Recommendation (Doc. 14) have been filed.

Accordingly, it is **ORDERED** that the Report and Recommendation (Doc. 14) of the Magistrate Judge is hereby **ADOPTED**. The Petitioner's petition for writ of habeas corpus (Doc. 1) is **DENIED**.

As to certificate of appealability, no certificate of appealability will be issued with respect to the claims alleged in Grounds Two, Three, Four, Five, Six, Seven and Eight, which this Court concludes is waived and thus barred from review on a procedural ground, because "jurists of reason would not find it debatable as to whether this Court is

correct in its procedural ruling” under the first prong of the applicable two-part standard enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000).

Again, a certificate of appealability will not be issued with respect to any other claims alleged in the petition because petitioner has failed to make a substantial showing of the denial of a constitutional right based on these claims. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

Finally, any application by petitioner to proceed on appeal *in forma pauperis*, the Court will certify pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of any Order adopting this Report and Recommendation (Doc. 14) would not be taken in “good faith,” and therefore **DENY** petitioner leave to appeal *in forma pauperis* upon a showing of financial necessity. See Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

IT IS SO ORDERED.

s/Michael R. Barrett
Michael R. Barrett
United States District Judge